



Technical Assistance for the Policy and
Regulation Initiative for Digital Africa
(PRIDA)

(Contract No: DCI-PANAF/2018/399-388)



CONTINENTAL WORKSHOP

ICT harmonization in Africa - How to monitor and evaluate it? - What
are the next steps to better adapt to the challenges of digital
transformation?

2-6 September 2019

Addis Ababa, Ethiopia

Agenda	Day 1 - Context
07h30 - 08h30	Registration
08h30 - 10h00	Opening Ceremony (FR and EN) 1 Welcome Note: Mr. Moutar Yedaly, Head of Information Society Division, AUC 2 Key Note Address: EU Delegation to the AU Mr.Cheikh Bedda, Director - Infrastructure and Energy, AUC 3 Practical Information 4 Group Picture
30 min	Coffee Break
10h30 - 13h00	Session 1: Context: The Digital Economy in Africa Presentation by: Ms. Alison Gilwald, Research ICT Africa (RIA) 5 Historical Perspectives 6 Recent Developments in digital ecosystem 7 Comparison with the rest of the world
90min	Lunch Break
14h30 - 16h00	Moderator: Session 1: (Con't) Context: The Digital Economy in Africa 8 Open Discussion 9 Draft Conclusions by Rapporteur (RIA)
60 min	Coffee Break – (<i>Rapporteur Drafting</i>)
17h00 - 18h00	Session 2: Context: Harmonization Presentation by: Ms. Katia Duhamel, PRIDA Expert 1. African Union Commission Mandate 2. Definition 3. Articulation Policy Legislation Regulation 4. Presentation of the working document

Agenda	Day 2 – Assessment
Session Chair: Rapporteur: PRIDA Expert, Ms. Katia Duhamel	
09h00 - 11h00	Session 3: Regional Economic Communities (RECs) 1 Past experience and common continental trends <i>(Presentation and Discussion)</i>
30 min	Coffee Break
11h30 - 13h00	Session 3: (Con't) Regional Association of Regulators 2 Past experience and common continental trends <i>(Presentation and Discussion)</i>
90min	Lunch Break
14h30 - 16h00	Session 3: (Con't) African Union Commission (AUC) 3 Past experience and common trends <i>(Presentation and Discussion)</i>
60 min	Coffee Break (<i>Rapporteur Drafting</i>)
17h00 - 18h00	Draft Conclusions by Rapporteur 4 Discussions 5 Adoption
Agenda	Day 3 – Methodology
Session Chair: Rapporteur: PRIDA Expert, Ms. Katia Duhamel	
09h00 - 11h00	Session 4: Lessons learned 6 Derived from assessment
30 min	Coffee Break (<i>Rapporteur Drafting</i>)
11h30 - 13h00	Session 5: Methodology - Policy Legislation 7 Presentation of Options 8 Selection
90 min	Lunch Break.
14h30 - 16h00	Session 5: Methodology – Regulation 9 Presentation of Options 10 Selection
60 min	Coffee Break (<i>Rapporteur Drafting</i>)
17h00 - 18h00	Draft Conclusions by Rapporteur 11 Discussions 12 Adoption

Agenda	Day 4 – Priority Areas
Session Chair: Rapporteur: PRIDA Expert, Ms. Katia Duhamel	
09h00 - 11h00	Session 6: Priority Areas 1 Presentations 2 Discussion
30 min	Coffee Break
11h30 - 13h00	Session 6: (Con't) Priority Areas
90 min	Lunch Break
14h30 - 16h00	Session 6: (Con't) Priority Areas
60 min	Coffee Break (<i>Rapporteur Drafting</i>)
17h00 - 18h00	Draft Conclusions by Rapporteur 3 Discussions 4 Adoption
Agenda	Day 5 – Roadmap and Implementation Plan
Moderator: Mr/Mrs _____ (AUC)	
09h00 - 11h00	Session 7: Roadmap and implementation Plan 5 2 years’ roadmap and implementation plan 6 Discussions in parallel sessions for Legislation/Regulations
30 min	Coffee Break
11h30 - 13h00	Session 7: (Con't) Roadmap and implementation Plan
90 min	Lunch Break
14h30 - 15h30	Final Report of the meeting 7 Discussions 8 Adoption
15h30 - 16h00	Final Remarks & Closing of the Meeting Mr. Moutar Yedaly, Head of Information Society Division, AUC

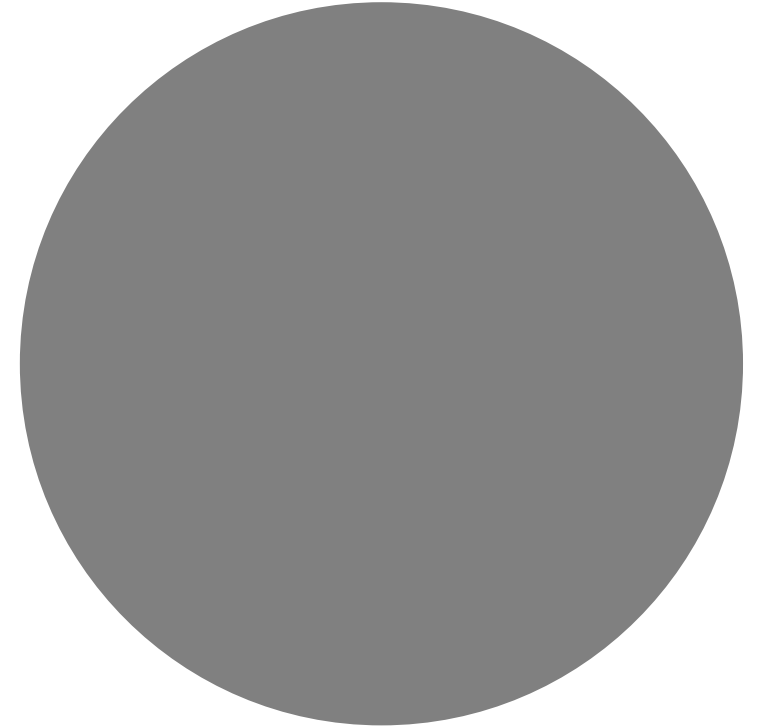
Agenda

Assessment

Agenda Session 3

Regional Economic Communities (RECs)

Agenda Session 3



Existence and scope of regional frameworks

(1) licensing, universal service and access, frequency management, numbering, interconnection, more recently cybersecurity & cybercrime, electronic transactions and data protection

- There are many harmonized regional frameworks following different paths around 2 main options :
 - The REC has the faculty and has opted for binding directives that its member states must transpose in their national legal framework (e.g. ECOWAS, UEMOA ...)
 - The RECs have chosen to adopt model laws that its member states can use as a basis for updating their legal framework as well as non-binding guidelines that can be adopted and implemented by national authorities.
- Depending on the path chosen, the type of products and outcomes that can be expected from the harmonization process are different.
- Anyway, for harmonization to be effective, the first phase of regional harmonization must be followed by a second phase of implementation at national level which requires measures by the RECs to accompany the Member States.
- Despite a convergence in the issues of harmonization of the telecommunications / ICT regulatory framework in several the RECs continue to progress at different rates in the harmonization process, which is also true for their member states (see table below).
- In this context, some RECs have initiated a more or less formalized collaboration between them, e.g. : ,
 - Regional Strategy Paper and Regional Indicative Program between the EU and COMESA, EAC, IGAD and IOC (under the 10th FED 2008-2013)
 - WAEMU and ECOWAS benefit from several coordination mechanisms, including the Joint Technical Secretariat (JTS), and recently decided to launch a joint study (as funded by the European Union) for the reform of their regional ICT framework

REC	Policy Harmonization & Reg	Access / interco.	RegimeRegi me Autorisatio n	Access and universal service	numbering	frequencies	consumers	Data protection	Electronic transaction s	cybercrimin ality
EAC	✓			✓			✓			
ECCAS	✓	✓ ³⁵				✓ ³⁶		✓	✓	✓
ECOWAS	✓	✓	✓	✓	✓	✓ ³⁷	✗	✓	✓	✓
CEN-SAD	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗
COMESA	✓	✗	✗	✗	✗	✗	✓	✗	✗	✗
IGAD	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗
SADC	✓	✓	✓	✓	✓	?	✓	✓	✓	✓
UMA	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗

Comparison of regional initiatives by thematic

(35), (36) et (37) to validate

	POLICY	LEGISLATIONS/LAW	REGULATION
ECCAS	<ul style="list-style-type: none"> — Regional ICT Development Policy for Central Africa (June 2009) — Framework for the harmonization of national policies and regulations. (June 2009) — Model laws: <ul style="list-style-type: none"> ○ Inter-border interconnections ○ Data protection ○ Electronic transactions ○ Cyber criminality ○ (...) 		
ECOWAS	<ul style="list-style-type: none"> — Telecommunication / ICT Development Strategy in the ECOWAS region for the period (2016-2020 (June 2016) 	<ul style="list-style-type: none"> — AA A/ SA.1 / 01/07 “Harmonization”; — AA A / SA.2 / 01.07 “Access & interconnection — AA A / SA.3 / 01/07 “Regime”; — AA A / SA.4 / 01/07 “numbering”; — AA A / SA.5 / 01/07 frequencies — AA A / SA.6 / 01/07 « Universal Devices » — Regulation C / REG.06 / 06/12 access to submarine cable landing stations, — Regulation C / REG 19/12/16 access of landlocked countries to national and international bandwidth — Regulation C / RE21 / 12/17 c” roaming” 	Guidelines on the relevant market analysis methodology and recommendation on relevant markets

Breakdown of initiatives according to their nature / legal scope

	POLICY	LEGISLATIONS/LAW	REGULATION
SADC	<ul style="list-style-type: none"> — TRASA Guidelines <ul style="list-style-type: none"> o Interconnection Guidelines (May 2000); o Pricing Policy for Telecommunications Services (November 2000); o Licensing Guidelines for SADC Countries (February 2002); o Wholesale Pricing Guidelines for the ICT Sector (September 2002) o TRASA guidelines on harmonization of numbering for SADC countries (November 2002 and January 2003); o Consumer Protection Guidelines (April 2004). — CRASA <ul style="list-style-type: none"> o Guidelines and regulations for wireless technologies put in place by CRASA (2004/2006); guidelines on consumer protection and rights (2009) 		

Breakdown of initiatives according to their nature / legal scope (2)

Implementation in national law

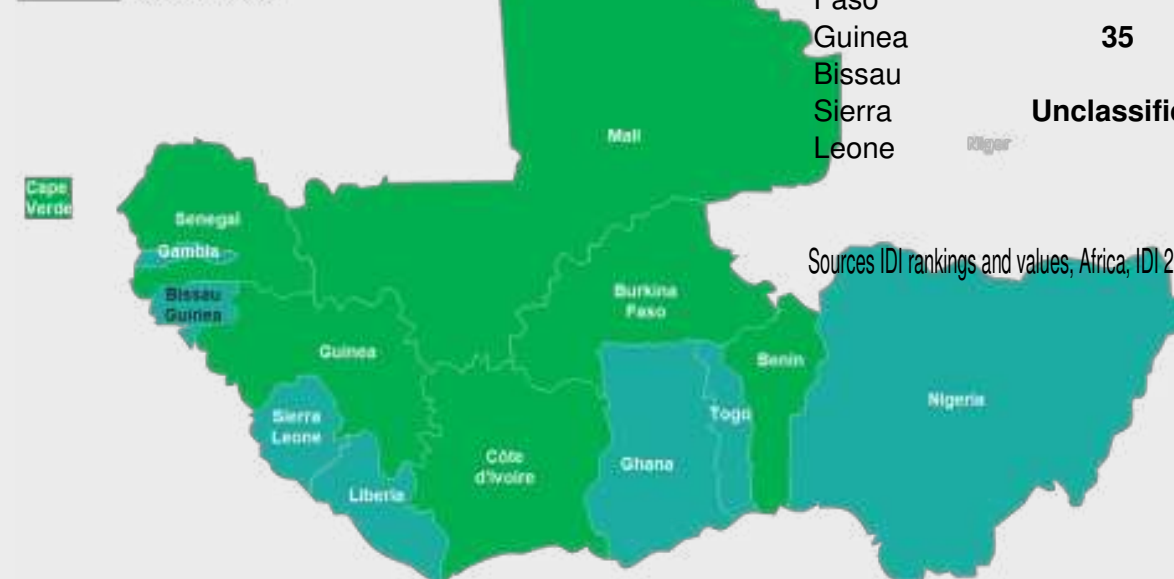
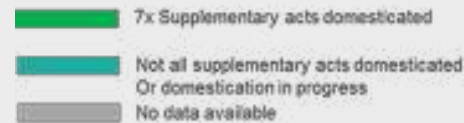
- **No common regional or continental tool for monitoring and evaluating the process of implementing a harmonized regulatory framework in the Member States.**
- There are studies on the subject but by nature circumscribed to a given period of analysis. Nevertheless, some of the findings of the studies carried out over the last ten years remain valid:
 - Lack of financial and / or human resources of the RECs and a need for capacity building to accompany and control the Member States in their transposition,
 - **Difficulties of the Member States belonging to different overlapping RECs, each with their own regional legislation**
 - Difficulties related to the governance and political will of the States concerned whose resolution requires the deepening of the political dialogue to convince the Member States of the interest of the effective integration of policies and regulations in the field of ICTs but also the creation of a common digital agenda to give Africa a chance to resist the challenges of globalization;
 - **The absence of a reliable jurisdictional mechanism, or where such mechanism exists, the reluctance of the actors to resort to it, to sanction the deficiency of the States not transposing or transposing badly the rules of the regional framework ;**

Harmonization impact on the market: inconsistent trend?

Country's formal compliance with its regional regulatory framework and the speed with which it has transposed the regional framework could be not strictly correlated with the country's development maturity in ICTs. This lack of correlation raises the question of the effectiveness and / or impact of harmonization measures on the development of digital uses and the market

Status of the Transposition of Additional Acts of ECOWAS (2017)

Source: DETECON 2017 for a report from the GSMA



Sources IDI rankings and values, Africa, IDI 2017 and IDI 2016

Country	Regional Rank 2017	Global Rank 2017
Cap Vert	4	93
Ghana	7	116
Côte d'Ivoire	9	131
Senegal	14	142
Nigeria	15	143
Gambia	16	144
Mali	22	155
Togo	23	156
Benin	25	161
Burkina Faso	26	162
Guinea	35	173
Guinea Bissau	Unclassified	Unclassified
Sierra Leone	Unclassified	Unclassified

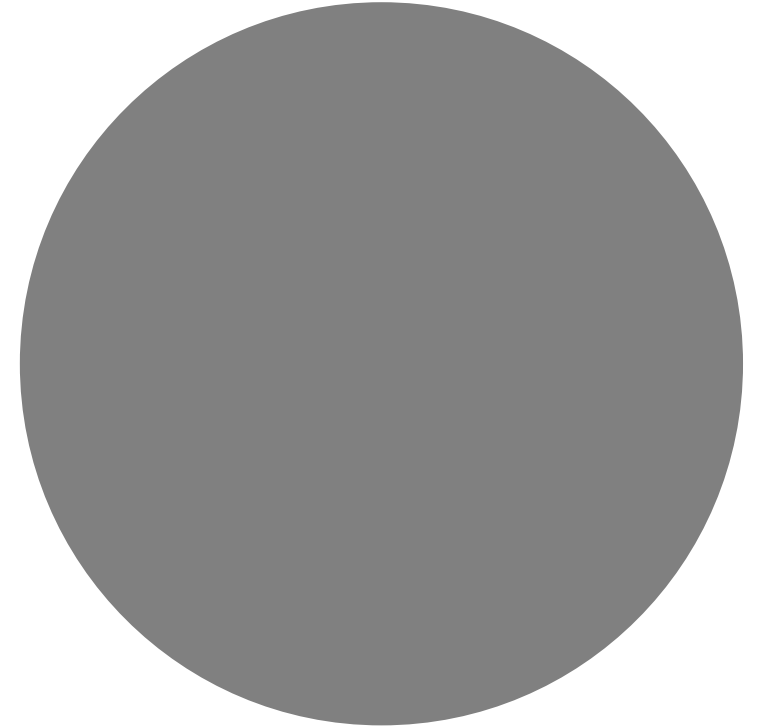
Ghana and Guinea Bissau, which both partially transposed the ECOWAS additional acts, have a very different ranking in the IDI ranking. Ditto for Burkina Faso and Cape Verde both of which are in perfect conformity with the additional acts of ECOWAS but which have a score very far apart from each other in the IDI ranking.

Preliminary conclusions on RECs

- The REC's continue to progress at a **very different rates**, and
- on the basis of very different method of harmonization depending on the REC's: guidelines / model laws (non-binding) vs Additional Acts, Directive Regulations (binding)
- Beyond the formal transposition of regional rules or guidelines in national, the impact of the harmonization is not measured or even at this stage measurable.

Regional Association of Regulators

Agenda Session 3



List

- Communications Regulators Association of Southern Africa (CRASA, e.g. TRASA) SADC
- Association of West African Telecommunications Regulators (ARTAO): ECOWAS
- Association of Regulators of Information and Communication Services (ARICEA): COMESA
- East African Postal and Telecommunications Regulation Organization (EARPTO): EAC
- Association of Telecommunications Regulators of Central Africa (ARTAC): ECCAS
 - + CRTEL (WAEMU)
 - + French speaking regulators (FRATEL),
 - + Association of Portuguese-speaking regulators (ARCT-CPLP)
 - + Group of European regulators of the Mediterranean (EMERG) which brings together 24 regulatory authorities including Morocco, Algeria, Libya and Egypt
 - + Conseil Africain des Régulateurs (CAR): Alliance Africa Smart

Situation

- Originally, the African regional associations of regulators contributed positively to the process of harmonization on the continent.
- This contribution has been important in the RECs whose harmonization model is based on regulatory initiatives (see above). RECs have created meeting places which have facilitated exchange of experiences that have been central to the development of guidelines (e.g.: CRASA).
- However, this initial advantage of meeting and exchanging information is gradually losing its importance as there are more and more discussion forums.
- Moreover, the interaction between RARs varies. Thus, some regional associations of regulators develop a model of cooperation while, others prefer to focus solely on their region.
- Similarly, the interaction of regional regulators' associations with RECs also varies. Some RARs have formalized their collaboration with their respective RECs, while others do not. In addition, the priorities of RARs and RECs are not always aligned.
- At the continental level, this collaboration of regulators has another challenge: the difference between continental law and common law (Anglo-Saxon) or language barriers.
- In this context, the future role of RARs in the process of governance and continental harmonization remains to be defined.

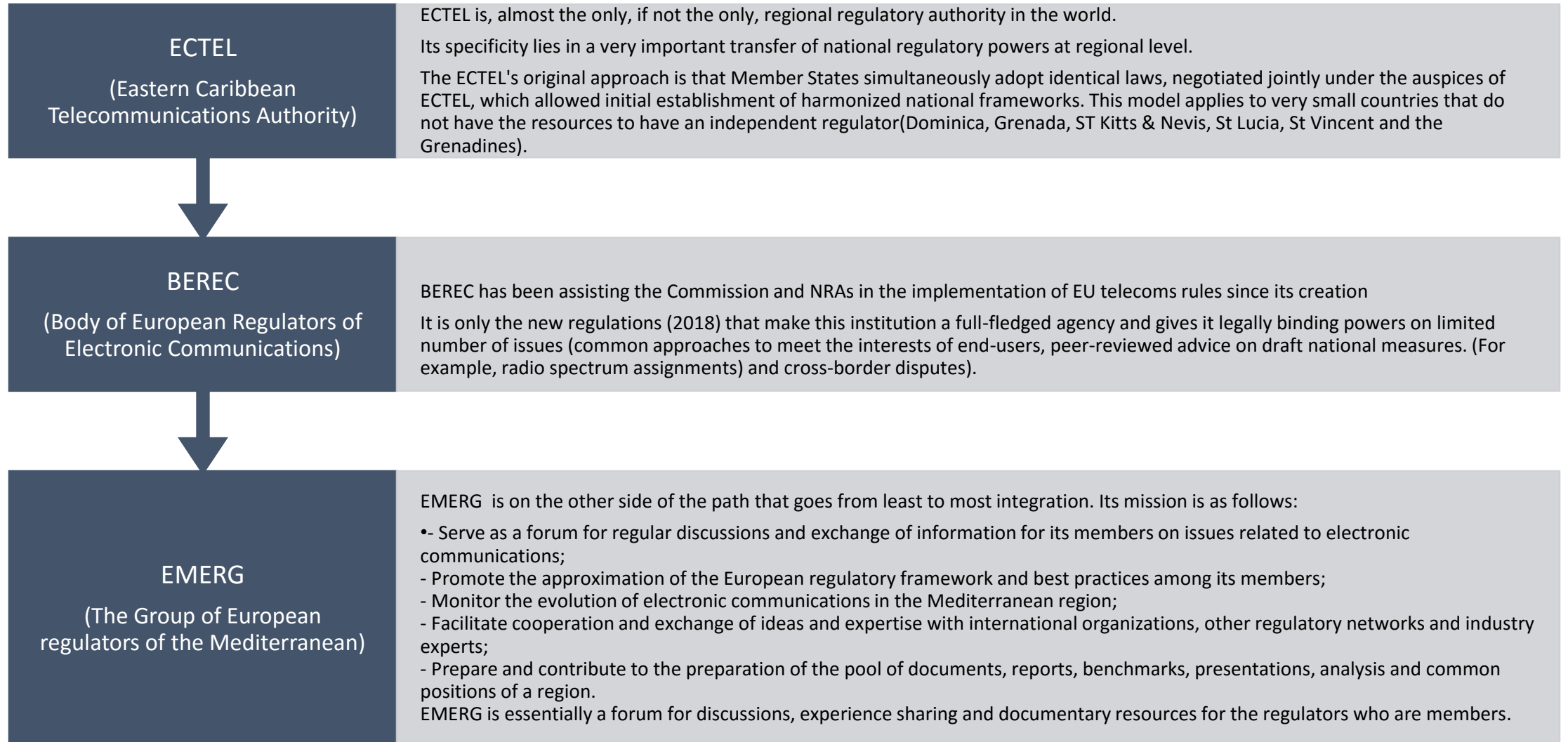
The phantasm of a Pan African Regulator

In 2009, one of the flagship recommendations of an HIPSSA study was to create “an *independent pan-African regulatory body with enforceable capacity, as well as a pan-African appeals mechanism*”

Retrospectively , it seems premature for a continental regulator with such skills to emerge :

- the independence of national regulators is far from being achieved in all the countries of the Continent
- the RARs has any enforceable power
- Even the Body of European Regulators of Electronic Communications (BEREC) which is often taken as a model , 10 years after its creation has only limited powers and entangled with those of the NRAs and the EU, (on the basis of a new regulation entered into force in December 2018)
- In addition, the powers of BEREC are exercised in the European context of a highly harmonized and binding regulatory framework in which the European Commission has strong control and sanctions powers which it does not hesitate to invoke. The case of the African continent is radically different (harmonization and weak constraints) which makes the BEREC model non-transposable within the AU

Regional regulators : quick overview

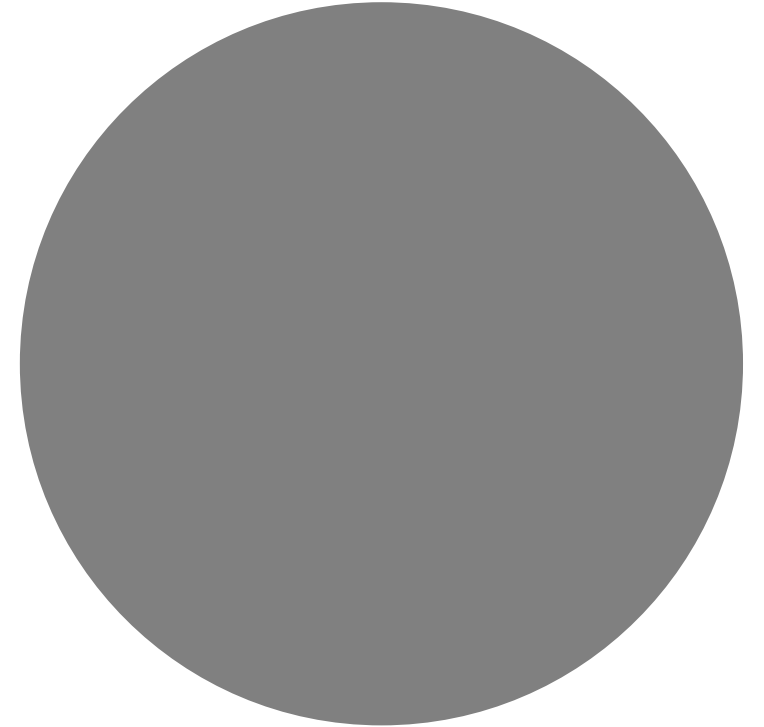


Preliminary conclusions on RARs

- The role of the RARs is less clear than at the beginning of the liberalization
- Over time, the priorities of the REC's and regional associations of regulators tend to diverge
- A new dynamic and more consistency are needed
- If we compare the different models of regional regulators mentioned above, EMERG functioning is probably the only model likely to be suitable at pan-African level in the medium term given the imperfect harmonization of the national texts in force, the absence or the weak means of coercion available to regional and continental institutions and the culture of consensus dear to Africa.

African Union Commission (AUC)

Agenda Session 3





CONTINENTAL LEGISLATION
Malabo Convention



**REC COORDINATION IN THE FIELD OF
LEGISLATION HARMONIZATION**
e.g. HIPSSA



CONTINENTAL POLICIES
Cairo Declaration , CISA, Etc.

A multi-approach ...

...resulting in a mixed picture

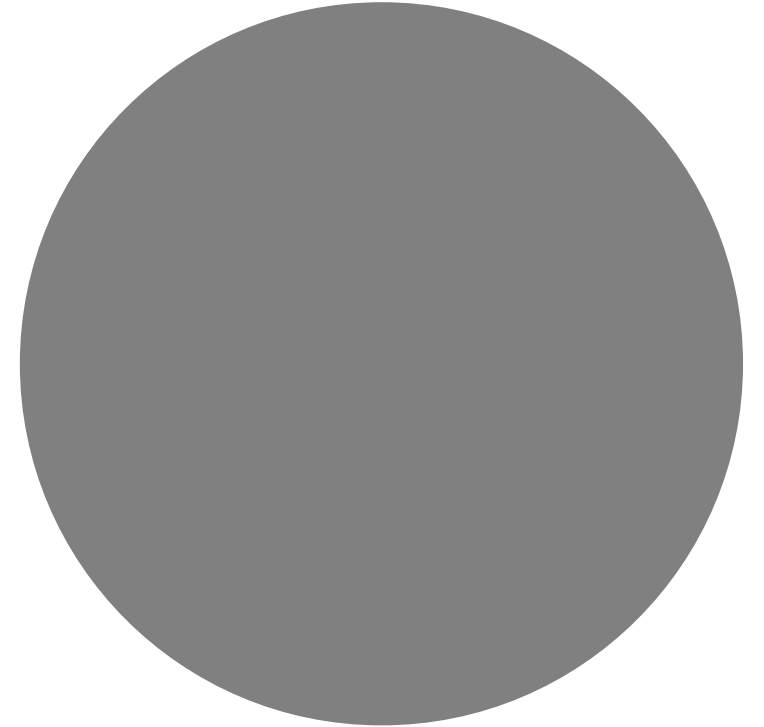
- In the absence of a comprehensive M&E based on specific and shared indicators, it is difficult to assess the results of the implementation of the AU's framework for the harmonization of policies and legislation in ICT Field
- The intervention of multiple actors for the implementation of the Reference Framework (AUC, AfDB, REC, NEPAD, ITU / EU for the HIPSSA project, etc.), each with their own approach and agenda, makes all the more difficult overall assessment.
- The coordination mechanism sought by the Khartoum Declaration was established and stakeholders met regularly from 2012 to 2017, sometimes in conjunction with other meetings such as the AXIS Steering Committees or ICT meetings organized by donors. These meetings had the positive effect of constituting a platform for exchange of information and common approach on the development of ICTs on the Continent among the main stakeholders of the ICT within the RECs. They have the disadvantage of depending on uncertain external financing which does not allow them to settle down in the long term, to ensure continuity and follow-up of the actions from one meeting to another.
- HIPSSA initiative has contributed significantly to the implementation of the AU Framework for the Harmonization of Telecommunication and ICT policy and legislation in Africa. The program achieved majority of its objectives by giving a pivotal role to the RECs on a list of pre-defined priorities under AU coordination.
- This success can largely be attributed to the following factors: a list of concrete and clearly defined priorities, a participatory and inclusive approach that took into account differences between regions and countries in terms of the maturity of telecom markets and their regulation; and issues of institutional and legal framework..
- However, the success of the HIPSSA project does not guarantee the sustainability of the harmonization process at continental and regional level. At the end, each REC has resumed its freedom to work individually by adopting and modifying its texts with the risk of diversions losing the benefit of harmonization. It is important to emphasize here the importance of implementing a sustainable exit strategy for such a project, independent of project funding.

...notably with regard to Malabo Convention

- African Union Convention on Cybersecurity and Personal Data Protection has not fulfilled all its promises as the first binding and innovative pan-African instrument to create a coherent cyber security momentum across the continent.
- In particular , the number of countries whose ratification is necessary for its entry into force has not been achieved.
- The "Malabo legal instrument" raises a series of questions in terms of substance as well as method:
- On the substance:
 - The Malabo Convention contains provisions that go far beyond the principles but create specific rules leaving little room for application by Member States when these States have different legal frameworks and pre-existing texts on the same subject. However, it is very unusual for the African Union to adopt texts aimed at the total standardization of national rules in a given field.
 - The primary acts of the African Union, including the Malabo Treaties, Protocols and Conventions, establish principles on the basis of which the Member States undertake to base their regional legislation and regulations, either when they establish specific obligations, then these relate primarily to cooperation mechanisms between States; the movement of people and goods; and the relations of the Continent with the outside world.
 - While it made sense to create an African cybercrime cooperation tool modeled on the Budapest Convention, such an approach is less relevant for electronic transactions or data protection. In these areas, adoption of model laws on the UNCITRAL model might have been more appropriate.
- On the method:
 - According to some stakeholders, support and advocacy actions by Member States to ratify the Convention would have been insufficient;
 - Although not publicly expressed, the proposed adoption of the Malabo Continental Convention may have competed with regional initiatives in the same areas, debated at the same time as the Continental Legislative Project.

ICT Harmonization assessment: synthesis

Agenda Session 3



REC'S Trends

	FINDINGS	DIAGNOSIS		CONCLUSIONS
		OPPORTUNITIES	OBSTACLES	
REC's	The REC's continue to progress at very different rates	Build on the dynamic of the HIPSSA project based on coordination of the RECs as mainstays for advancing continental harmonization of telecommunications / ICT legislations	In North Africa, the REC was not part of the HIPSSA dynamic and does not play its role of regional harmonization	It would be helpful to put into place sustainable and effective co-operation mechanisms between the REC's and AUC to promote greater coherence and integration at the Continental level.
	The method of harmonization is very different depending on the REC's: guidelines / model laws (non-binding) v Additional Acts, Directive Regulations (binding)		REC's have limited human and financial resources. Often inconsistent with the wish to cover a large amount of content	
	Beyond the selected legal strategy, the commitment and political is important for effective harmonization		Cumbersome procedures for recruiting outside experts	It would also be useful to implement mechanisms that are lacking for monitoring and evaluating (M&E) the implementation and impact of harmonization in member countries
	The formal compliance of a country with the regional legislative framework and the speed with which it is transposed is not strictly correlated to the maturity of said country in terms of ICT development		There is a lack of political will amongst certain Member States	
			No regional mechanism for Monitoring and Evaluation of the impact of harmonization on national/regional markets No effective mechanism /process for coordinating national, regional and continental aims	

RAR's Trends

	FINDINGS	DIAGNOSIS		CONCLUSIONS
		OPPORTUNITIES	OBSTACLES	
Regulatory Associations	<p>The regional associations of regulators have made a positive contribution to the harmonization process in their region and less at the continental level</p> <p>Their role is currently not so clear</p>	Construct a new continental approach in the PRIDA framework for regional regulator's associations to better co-ordinate their priorities amongst themselves and with those of the REC's	<p>No regional, nor <i>a fortiori</i> continental mechanism for Monitoring and Evaluation of the impact of harmonization on national markets</p>	<p>Creation of a pan-African super-regulator to oversee the regional associations of regulators and NRA's makes no sense in the African context:</p> <ul style="list-style-type: none"> • very imperfect harmonization of the national texts in force, • In some cases the independence of the NRA's is disputable • Lack of enforcement and sanction mechanism amongst regional and continental institutions. <p>Setting up working groups to consider a list of common priorities is a more flexible and realistic model</p>
			Limited human and financial resources. Often inconsistent with the wish to cover a large amount of content;	
			Existence of other discussion platforms between regulators at the pan-African or peripheral level (i.e. CRA , FRATEL, EMERG ...)	

AU's Trends

	FINDINGS	DIAGNOSIS		CONCLUSIONS
		OPPORTUNITIES	OBSTACLES	
AU	<p>The AUC has put into place various approaches to harmonization of telecommunications and ICT policies and legislative frameworks in Africa:</p> <ul style="list-style-type: none"> • Co-ordination of REC legislative initiatives • Adoption of a uniform pan-African legislative framework (Malabo Convention) • transversal policy (CISA), ...) 	<p>The turning point of the “digital economy” is a unique opportunity for Africa to position itself collectively on the international stage.</p>	<p>No effective mechanism for coordinating regional and continental players</p>	<p>Coherence and pace of implementation of harmonization by the Rec's and the Member States are inadequate The main pitfalls to be overcome in order to make progress are at the least:</p> <ul style="list-style-type: none"> • Definition at the continental level of concrete and measurable regulatory priorities • Implementation at the continental level of a mechanism for Monitoring and Evaluation of implementation of said priorities by the REC's and Member States.
	<p>Currently, none of these initiatives has delivered all the expected benefits</p>	<p>Entry into force of the AfCFTA strengthens the requirement for the Continent to harmonize its policies, legislation and regulation practices with regard to digital matters</p>	<p>Lack of Monitoring and Evaluation at the regional and continental levels</p> <p>Lack of means and resources to effectively support and oversee continental harmonization</p>	

Methodology

Agenda Session 4 & 5

Lessons learned

Agenda Session 4



Key point of the previous assessment

Retrospectively, as regards harmonization methods and the experience accumulated since the mid-2000's by the associations of regulators, the REC's and the AUC, the broad lines which emerge tend towards results falling short of expectations,

- Specific difficulties to harmonization on three levels (pan-African, regional and national) ; these difficulties being further exacerbated by the intricate nature of the jurisdictions and geographical perimeters involved.
- Due to this complexity and other institutional obstacles, the period of time required for harmonization and implementation of the reforms is far slower than the pace of market transformation;
- **Low cohesion, cooperation, coordination and harmonization among regional and continental actors**
- In addition, there is no common mechanism for measuring the quality of implementation and the coherence of national frameworks with regional and/or continental frameworks (Monitoring and Evaluation).
- **Generally speaking, whether at the continental or regional, political or legislative level, Monitoring and Evaluation tools based on shared indicators are sadly lacking;**
- Attention has been focused on the telecommunications sector but there is not yet a broader vision reflecting the galloping digitalization of our societies with progressive integration of technologies and digital services in all sectors of the economy and of society.

Lessons for the future

- ▶ The African Continent is too vast and too diverse; it is not yet ready to envisage and to implement in the short or the mid-term global and uniform harmonization of Telecommunications/ICT legislation despite the integration and unity it aspires to;
- ▶ However pragmatic solutions need to be found to strengthen this harmonization, which will enable Africa to stake its independence and take its place in the global digital economy, as well as to progressively develop a single African digital market;
- ▶ The diversity of harmonization, achieved at different speeds at REC level is not sufficient for this aim to be achieved;
- ▶ Implementation of a mechanism at the continental level for Monitoring and Evaluation (M&E) of implementation of ICT legislation in Member States would certainly be a way of creating more harmonization, subject to an extremely pragmatic and realistic approach being developed, to take into account the limited means and resources available on the Continent. This would avoid measures which are destined to fail given their complexity or their cost

Monitoring & Evaluation

Why is it important?

What is it?

How does it work?



M&E is a world in itself.

We are not so presumptuous as to think that we are able here to describe in depth what is a M&E system either to compare all the existing methods even in the more limited field of Regulatory Impact Assessment (RIA) or provide detailed guidance on conducting evaluations

Our goal is to emphasize the role that can play **M&E in the creation of more coordination and cooperation between AU, RECs , RAR and all the stakeholders to ICT policy , legislation and regulation harmonization in Africa** and to identify the challenges attached to the implementation of such M&E mechanism

Why is M&E important?



- **Support project/program implementation** with accurate, evidence-based reporting that informs management and decision-making to guide and improve project/program performance.
- **Contribute to organizational learning and knowledge sharing** by reflecting upon and sharing experiences and lessons so that we can gain the full benefit from what we do and how we do it.
- **Uphold accountability and compliance** by demonstrating whether or not our work has been carried out as agreed and in compliance with established standards
- **Provide opportunities for stakeholder feedback**, especially beneficiaries, to provide input into and perceptions of our work, modelling openness to criticism, and willingness to learn from experiences and to adapt to changing needs.
- **Promote and celebrate our work** by highlighting our accomplishments and achievements, building morale and contributing to resource mobilization.

What is Monitoring ?

- Monitoring is the routine collection and analysis of information to track progress against set plans and check compliance **to established standards**. It helps identify trends and patterns, adapt strategies and inform decisions for project/program management
- There are different types of monitoring commonly found in a project/program monitoring system.
- These monitoring types often occur simultaneously as part of an overall monitoring system.

Results monitoring tracks effects and impacts

Process (activity) monitoring tracks the use of inputs and resources, the progress of activities and the d outputs.

Compliance monitoring ensures compliance with donor regulations and expected results, grant and cor requirements, local governmental regulations and laws, and ethical standards.

Context (situation) monitoring tracks the setting in which the project/programme operates. It includes well as the larger political, institutional, funding, and policy context that affect the project/programme

Beneficiary monitoring tracks beneficiary perceptions of a project/programme: satisfaction or complain participation, treatment, access to resources and their overall experience of change.

Financial monitoring accounts for costs by input and activity within prod categories of expenditur

Organizational monitoring tracks the sustainability, inst project/programme and with its partners.



What is Evaluation ?

- The OECD/DAC ⁽¹⁾ definition of evaluation is an assessment, as systematic and objective as possible, of an ongoing or completed project, program or policy, its design, implementation and results.
- The aim is to determine the relevance and fulfilment of objectives, developmental efficiency, effectiveness, impact and sustainability. An evaluation should provide information that is credible and useful, enabling the incorporation of lessons learned into the decision-making process of both recipients and, the case may be the donors
- There also different type of evaluation, e.g.: Midterm or summative evaluation , internal or external/independent...

(1) : Development Assistance Committee of the Economic Cooperation and Development (OECD/DAC)



Key steps for M&E implementation

1.1. Definition of the purpose and scope of the M & E system:
Why do we need an M & E system and what areas should we cover?

1.2. Identification of performance issues, information needs and indicators: what do we need to know to monitor and evaluate the project in order to manage it well?

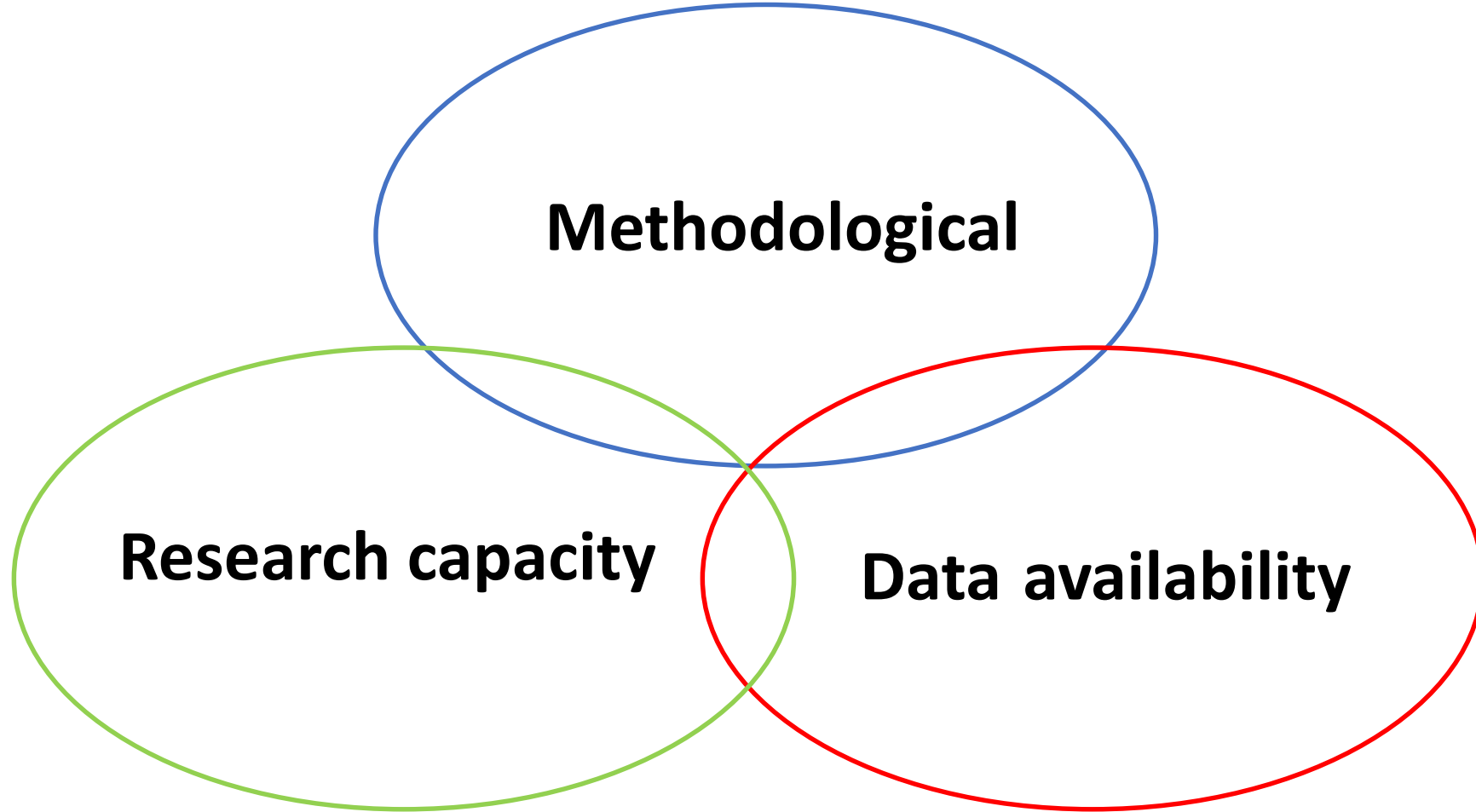
1.3. Planning the collection and the organization of information: how will the necessary information be collected and organized?

4. Planning the mechanisms and activities needed to implement the critical reflection: how will we draw the information from the collected information and use it to improve the management of the project?

5. Planning for communication and quality (evaluation) reports?

6. Planning the necessary means and skills: what do we need to make the M & E system work?

The challenge of evaluation of harmonization of ICT policies, legislations and regulation in Africa



Continental and Regional levels

- At the regional level, we are not aware of any operational, systematic, mechanism for evaluation of **the impact of legislation or regulation** on the telecommunications/ICT market either on the supply or demand side.
- **Supply-side indicators/indices such as the IDI, NRI and MCI which base on supply side measurement are more likely to be misleading and demand-side indicators are missing**
- The launch, with the support of the World Bank, of the initiative known as ***“ICT Regulatory Watch Initiative”*** is one of the first attempts to address this issue.
- The initiative is in testing phase, with phase 1 concerning solely:
 - a limited number of questions, concerning the 3 following domains: i) rules concerning licensing regime (i.e. conditions for market entry), ii) access to international gateways and iii) OTT
 - the Member States of ECOWAS.
- At the continental level the Monitoring and Evaluation (**M&E**) process is all the more embryonic in that the UA does not yet have a policy or framework sufficiently defining specific aims as to what should be harmonized and when.
- Failing definition of these aims, they cannot be monitored or evaluated.
- Once such aims are fixed, then an M&E method still has to be chosen.

Member State Level

Usual indicators and associated objectives

ANALYSIS OF THE NATIONAL MARKET	OBJECTIVES
1 Infrastructures (networks & technologies)	Accessibility
2 The available offers and their competitive nature	Plurality of the offer
3 the quality of services	QoS
4 the price level	affordability (Offer)
5 penetration rate	Development of uses (Demand)
6 If possible a measurement of utilization (frequency, volume of data etc.)	
7 (...)	
ANALYSIS OF THE ENABLING LEGISLATION/REGULATION	OBJECTIVES
8 Independence activity of the regulator	Effectiveness of regulation
9 Regime of telecommunications activities	Removal of barriers to entry
10 Access / interconnection	Development of competition
11 Universal access / service	Competition
12 Spectrum management	Accessibility
13 Regulation of the quality of service	Competition / spectral efficiency / optimization of scarce resources
	QoS

- Evaluation of the impact of legislation or regulation on the telecommunications/ICT market is carried out by Member States in the simple form of a sectoral diagnosis, generally when a reform is envisaged.
- The consultants who carry out these diagnoses use the same indicators (most of the time) that have the merit of being known and shared

International ICT policy /regulation evaluation

- At international level, impact evaluation methods - either prior or *a posteriori* - of public policies and legislation are numerous. They are, moreover, often complex and costly to implement.
- Policy aspects can be assessed using UNCTAD's ICT Policy Evaluation Framework, and evolution of the digital economy by using the World Bank's "Digital Economy Country Assessment (DECA)" assessment framework.
- Regulatory practice can be assessed using the OECD's Regulatory Impact Analysis (RIA) method or the eLearn Asia / RIA Telecommunications Regulatory Environment (TRE) Assessment Method.
- There are also studies carried out in the private sector which attempt to link the legislative framework of a country to the advisability of investing in a specific market. For example, the recent Mobile Money Regulatory Index established and published by GSMA determines to what extent the legislative framework of a country makes generalized adoption of mobile money possible (entry index).
- It should be noted here that the MMRI analyzes six broad regulatory dimensions considered as enabling ("regulatory enabler") for the adoption of mobile money services, by aggregating several indicators for each regulatory enabler. i.e. in total 27 indicators, associated with different types of measurements!

MMRI Example

The 27 indicators are associated with measurement which can be of three different types:

1. Continuous. A numeric value that is not limited to particular values (for example, transaction values or maximum account balances allowed).
2. Binary. A value that can only take two answers, usually "Yes" or "No" that gives scores of 1 or 0 respectively (for example, does the regulation impose a geographical restriction on mobile money service distributors? Yes? No?). Some indicators can be constructed using several binary indicators (for example, 5 binary indicators could be combined so that one country receives a score of 5).
3. Ordinal. A ranking based on a predefined scale. The higher score being associated with "better" performance or more enabling regulation.

As an example, on one of the 6 regulatory dimensions, the dimension t "authorization", the MMRI index uses the following indicators and ranking method:

Dimension	Indicator	Scoring
Authorization	Eligibility	0 Non-banks including MNOs are not eligible to issue e.money/offer mobile money services at all
		1 Non-banks are eligible to issue e-money/offer mobile money services, but MNOs are prohibited from doing so. Alternatively, MNOs are eligible to provide mobile money services, but no other non-bank is.
		2 Non-banks (including MNOs) are not eligible to issue e.money/offer mobile money services except by acquiring or establishing a lower-tiered prudentially regulated institution that is authorized to issue e-money/offer mobile money/branchless banking directly. The test here is whether the non-bank owns the customer relationship with the mobile money account holders. If not, then this indicator applies
		3 Non-banks (including MNOs) are not eligible to issue e.money directly or obtain regulatory authorization to offer mobile money services except in partnership/in conjunction with a prudentially regulated institution whose role extends beyond providing funds custodial services (e.g. regulatory authorization, regulatory engagement, etc.) but does not have a customer relationship with mobile money account holders. The test here is whether the non-bank owns the customer relationship with the mobile money account holders. If it does, then this indicator applies
		4 Non-banks (including MNOs) are eligible to issue e.money/offer mobile money services directly or through a subsidiary (which is not prudentially regulated) with the involvement of a prudentially regulated institution as custodian of customer funds
	Authorization Instruments	0 There exists no regulatory framework to provide authorization for the provision of mobile money services
		1 There exists no regulatory framework to provide authorization for the provision of mobile money services, but letters of no objection are released.
		2 There exists a formal authorization to provide mobile money services, which is based on a regulatory framework. However, no licenses have yet been issued
	Initial capital requirements	3 Here exists a formal authorization to provide mobile money services, which is based on a regulatory framework, and licenses have been issued.
		Continuous Ratio of the initial capital requirements for mobile money providers to the initial capital required to become a bank in that country.
International remittances	1 pt if	Regulation allows mobile money providers to send international money transfers
	1 pt if	Regulation allows mobile money providers to receive international money transfers
	1 pt if	There is no separate licensing regime for international remittance services.

Toolkit for Measuring Digital Economy

G 20 - November 2018

The G20 Toolkit for Measuring the Digital Economy brings together different methodological approaches and indicators that may be used to monitor the digital transformation and highlights critical gaps and challenges involved in digitalization measurement

It provides more than 30 key existing indicators and methodologies to monitor and assess the size and penetration of the digital economy are organized in four themes according to their main purpose of measurement:

Infrastructure: Indicators of the development of physical, service and security infrastructures underlying the digital economy: <ul style="list-style-type: none">• access to mobile and fixed networks,• the development NGA networks,• dynamics of household and business uptake,• secure servers infrastructure, and infrastructure	Empowering society: Indicators that portray the evolving role of the digital economy in people's life, how they access and use digital technologies, and their abilities to fully exploit their potential. It includes indicators on people's use of the internet, education, financial inclusion and interaction with government, among others.
Innovation and technology adoption: Indicators that address innovation in digital technologies, new digitally-enabled business models, the role of ICTs as an engine for innovation, and adoption of ICTs and other emerging technologies by businesses.	Jobs and Growth. The metrics collected within this section explore the different ways in which digital technologies contribute to economic growth and employment creation. It includes indicators related to the labour market, employment creation, investment in ICTs, value added, international trade, e-commerce, and productivity growth.

G20 note : Existing top down indicators are limited in their ability to capture the complexities of the digital economy. G20 members may wish to explore ways to better utilize existing usable data sets and use complementary bottom up measurement methodologies whenever possible

- In summary, there is no universal method of M&E which is a perfect fit and, a fortiori, simple.
- In Africa and per our specific issue (harmonization of ICT policies, legislations and regulation), the challenge for implementing such M&E is bigger due to weak data availability and lack of resources
- Therefore our goal is to find an inventive, pragmatic and progressive way for measuring progress in harmonization as a tool for generating more cohesion and coordination and in order to avoid measures which are destined to fail given their complexity or their cost

So what can we do?

Clearly define the distribution of tasks and the role of each of the principal players, parties to the harmonization process

- **AU:** the AU could continue with its contribution to harmonization by adopting continental policies. In addition, it **could have a pivotal role in implementing a continental methodology for measuring implementation, and if possible, the impact (Monitoring and Evaluation) of policies, legislation and regulatory practices of telecommunications/ ICT in Africa;**
- **REC - AUC** The REC's could retain their leading role in the preparation and adoption of regional legislations/guidelines and in supporting Member States in the implementation of the regional framework in national laws. The REC's and AUC could decide on more effective co-operation mechanisms to promote greater coherence and integration at the Continental level through the M&E mechanism
- **Regional associations of regulators :** New co-operation mechanisms between NRA's could be put into place in order to improve continental harmonization of regulatory practices and coherence of actions between regional associations of regulators and REC.

On the basis of previous experience both in Africa and internationally, it is suggested to constitute working groups between NRA's composed of experts for each regulatory question / issue identified in a list of priorities such as defined below

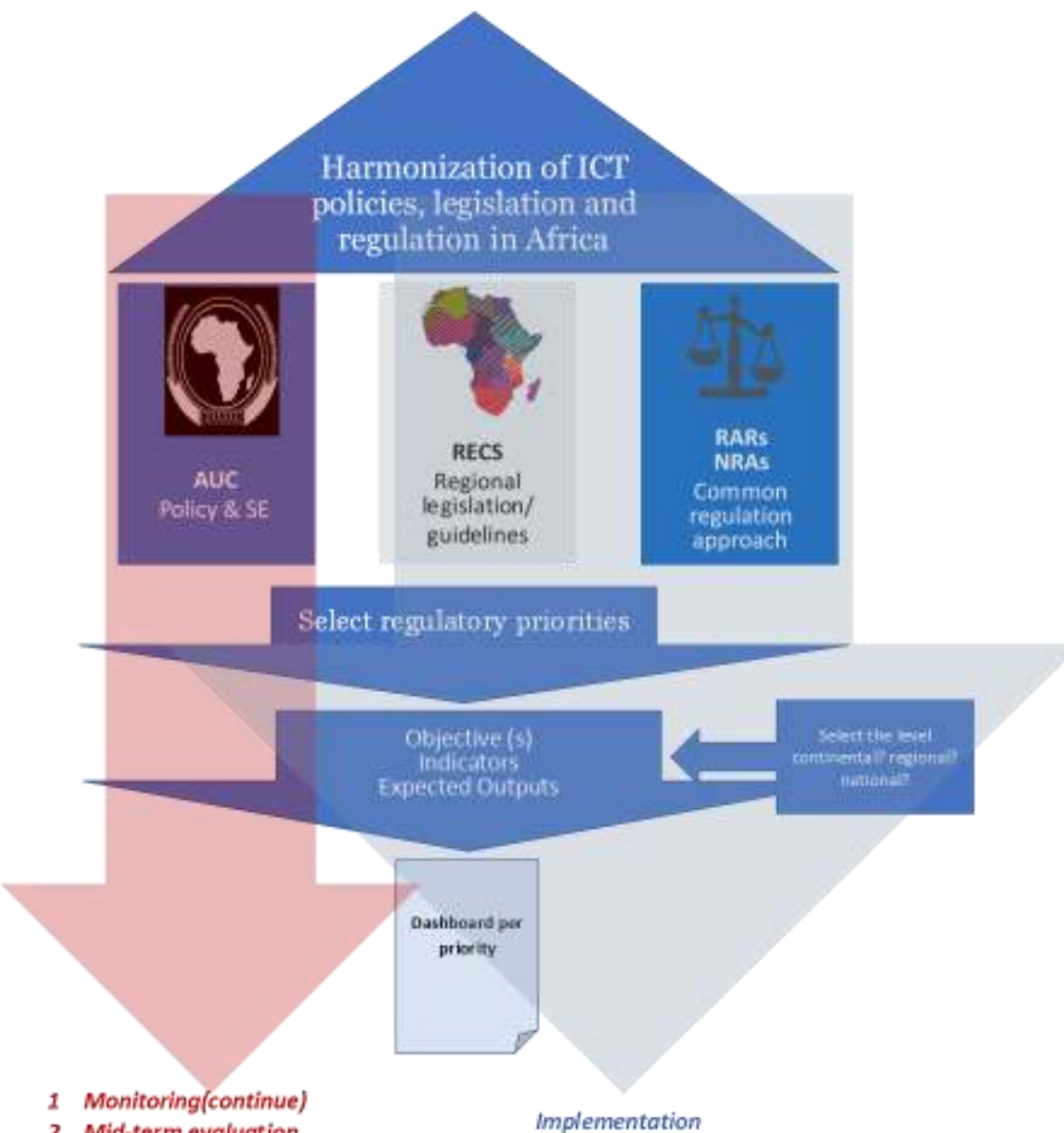
In the selected list of priorities, the most technical priorities shall be considered solely at NRA level. For those priorities considered at REC level, it would be useful to check the need for co-ordination with the NRA's.

Inter-NRA working groups could be constituted:

- on a continental basis by the existing regional associations of regulators
- on a more limited scale between certain regional associations. This would not be co-operation on a truly continental scale, but is a realistic scenario similar to the initiative by the African Council of Regulators (ACR) of the Smart Africa Alliance
- on the basis of a group of individual regulators spread across the Continent, not necessarily being from the same region, and encountering the same problems

Define a tailored continental M&E method for harmonization of policy, legislative frameworks and regulatory practices

- Insofar as there is no perfect M&E model available and to avoid the pitfall of impracticality, M&E of harmonization of policy, legislative frameworks and regulatory practices should be restricted to a **limited number of regulatory priorities** selected by the stakeholders during the workshop.
- Each of these priorities should be **specifically** associated with (i) aims, (ii) measurement indicators (iii) and the results expected on the basis of said indicators. These shall be defined for each case. In addition, the selected indicators shall take into account their availability and the capacity of stakeholders to collect and process the required data.
- In the list of priorities to be discussed during the workshop, it is proposed to select **2 up to 3 legislative definitive topics for RECs and the same number of regulatory issues for RARs.**



A limited number of priorities
+ Common objectives per priority
+ Strict S&E of their implementation
+ Based on pre agreed indicators by priority at a continental level
= more harmonization & cooperation

To be reproduced and continued

Intermediary agreement proposed

Key steps for M&E implementation	Should be done during the workshop	Should be done after the workshop
Definition of the purpose and scope of the M & E system	YES 1 Agreement on the key elements of the methodology 2 Selection of the priorities to be covered 3 Matrix for definition of objective/indicators and expected outcomes	NO
Identification of performance issues, information needs and indicators:	Partially ⁽¹⁾	Partially ⁽¹⁾
Planning the collection and the organization of data	NO	YES
Planning the mechanisms and activities needed to analyse the data	NO	YES
Planning for communication and quality (evaluation) reports	NO	YES
Planning the necessary means and skills	NO	YES

(1) Depending on the regulatory priorities selected, there may be more or less difficulty in defining the right indicators and the indicators may be of very different types.

A well-known issue benefiting from a mature legislative framework the implementation of which can be evaluated or has already been evaluated with sufficient hindsight (e.g. the regime for operator licenses since liberalization of the market in Africa), definition of the indicators is certainly less complex than for prospective issues such as digital tax issues or the Internet of Things for which no measurable regulatory framework has yet been developed over time

Options for Discussion

Methodology - Policy Legislation

Agenda Session 5


AU pivotal role in
implementing a
continental
methodology for
measuring
implementation &
impact of policies,
legislation and
regulatory practices of
telecommunications/
ICT in Africa

The AU already concentrates its action on :

- The adoption of policies to i) promote and support the cross-cutting use of ICTs to transform African societies and economies to ii) create an African digital single market that would be just as logical as necessary for the **AfCFTA** which has just come into force.
- These policies could identify a number of areas where RECs and Member States will have to adopt new rules or modernize existing rules, based on principles and expected results discussed and approved at the continental level.
- However low cohesion, cooperation , coordination and harmonization among regional and continental actors is noted

To reinforce coordination and cooperation between RECs RARs and UA, the CUA could take the lead on the development, support and monitoring of the implementation of a common methodology for Monitoring & Evaluation of harmonization initiatives at continental level

To fit the goal of improved harmonization option 1 could be privileged



Towards more continental harmonization

Actions	Options	AUC role	REC role	Role of Member States
Definition of a general methodology for M&E	Option 1: Continental Guidelines	<ul style="list-style-type: none"> - AUC to propose principles of continental methodology after collecting inputs from RECs - Adoption by the AU 	<ul style="list-style-type: none"> - Inputs - Implementation 	<ul style="list-style-type: none"> - Initial inputs to determine the methodological principles - Providing the data needed for implementation
	Option 2: Regional guidelines	<ul style="list-style-type: none"> - AUC coordinates and supports the adoption of a specific methodology by REC 	<ul style="list-style-type: none"> - Each REC proposes the principles of a regional methodology after collecting inputs from Member States - Adoption - Implementation 	<ul style="list-style-type: none"> - Initial inputs to determine the methodological principles - Providing the data needed for implementation

RECs-AUC cooperation

- While it seems logical for the RECs to play a pre-eminent role i) in the preparation and adoption of legislations / guidelines at regional level and ii) in supporting Member States in the implementation of the framework in national law, more effective co-operation mechanisms should be established to promote greater coherence and continental integration:
 - **The collective establishment of a continental-wide list of regulatory priorities for the adoption of future harmonized regulations is one of such mechanism, and,**
 - **the identification - at the continental or regional level of objectives , indicators, and expected results for each of the initiatives on the list of regulatory priorities**
- **would be one more step in the implementation of a harmonized continental regulation.**
- This implementation remains at the level of the RECs
- It could be also useful to designate a regional or national champion responsible for coordinating the initiative at the continental level for each regulatory priority chosen.

Regardless the priorities selected, objectives, indicators and expected outputs could for each of them be defined at different levels : continental, regional or national

- It is the reason why the following tables are multiple entries
- For example, we can imagine that stakeholders agree on a scenario where
 - the objectives are continental
 - regional measurement indicators
 - National expected results
- Or
 - the objectives are continental
 - continental measurement indicators
 - Regional expected results
- Etc.
- **Additionally, for each regulatory priority selected, the above “mix” may be different.**

RECs-AUC cooperation (cont.)

Actions	Continental harmonization	Options	AUC role	REC role	Role of Member States
Designation of a regional or national champion for each regulatory priority	+	-	-	- Designation	- Designation
Definition of the objectives pursued for each regulatory priority	+	Option 1: Definition of continental objectives	- The AUC must coordinate the RECs to agree at the continental level on high-level and specific objectives for each priority, eg. * High Level Objective: to lower barriers to entry into the telecom market; * Specific objectives: - Development of Competition; - Geographical and tariff accessibility - Quality of services in particular in terms of available throughput Development of uses (penetration rate)	inputs Country support for implementation	inputs Implementation
	-	Option 2 Definition of regional objectives	AUC coordinates and supports the adoption of regional goals	Each REC must coordinate the countries in order to agree at the regional level on high level and specific objectives for each priority chosen. cf. examples above	inputs Implementation

RECs-AUC cooperation (cont.)

Actions	Continental harmonization	Options	AUC role	REC role	Role of Member States
Definition of indicators for each regulatory priority	+	Option 1 Adopt unified continental indicators	AUC to coordinate RECs to agree on continental indicators for each regulatory priority	inputs Country support for implementation	inputs Implementation
	—	Option 2 Adopt regional indicators that may differ from one REC to another	AUC coordinates and supports the adoption of regional measurement indicators for each regulatory priority	The RECs propose and adopt, on the basis of Member States' inputs, the regional measurement indicators for each regulatory priority	initial inputs to identify relevant indicators Implementation
Definition of expected results on the basis of the predefined indicators and by regulatory priority	+	Option 1 Anticipate different regional results from one REC to another	The AUC coordinates and supports the adoption of expected regional or national outcomes for each regulatory priority	The REC proposes and adopts on the basis of Member State inputs the expected regional results for each regulatory priority	initial inputs to identify regional expected results for each regulatory priority
	—	Option 2 Anticipate national results from one state / member to another	The AUC coordinates and supports the adoption of expected regional or national outcomes for each regulatory priority	RECs coordinate and support the adoption of national expected results for each regulatory priority	Definition of national results for each regulatory priority

Methodology - Regulation

Agenda Session 5

RARs NRAs Cooperation

Step 1 - Identification of a list of concrete questions regarding the implementation of existing or future regulations

- Identify and propose a series of concrete and priority issues of implementation in relation to:
 - Legislation in force
 - Legislation that could be considered in the context of the regulatory priorities defined at the beginning of the project (see § 4.2.2. below);
 - Cross-cutting issues that are not directly related to legislation in force or that can be anticipated
- For example, the issue of "data regulation" could prove to be a very successful theme for national regulators
- Another subject of interest in terms of regulation, is the implementation of a cross-border settlement mechanism based on the mechanism provided for in Article 9 of Regulation C / REG 19/12/16 to extend it to other topics that bandwidth access
- Priority Regulatory Questions ("PRQs") may be selected from the list of proposals in the working paper or any other relevant topic proposed before or during the workshop

RARs NRAs Cooperation

*Step 2 - Set up a working group
made up of experts for each PRQ*

- Following the validation of the PRQ list a working group made up of experts is identified to develop
 - common approaches / positions, guidelines or methodologies on a PRQ
 - work programs on specific a PRQ
- Each working groups may consist of:
 - On a continental basis by the regional associations of existing regulators;
 - On a smaller basis between certain associations. This would not be true continental cooperation, but it is a realistic scenario a bit like the initiative of the Council of African Regulators (CAR) of the Smart Africa Alliance ;
 - On the basis of a group of regulators not necessarily belonging to the same African region who face the same problems.
- A responsible NRA should also be designated for each issue and associated working group. The latter could be in charge of:
 - convocations
 - hosting experts on its premises or organizing video conferences
 - preparation of working documents / reports
 - propose an association with international experts or twinning with leading foreign NRAs on the subject concerned

RARs
NRAs

Cooperation

Step 3 - Monitoring & Evaluation

- Same M&E methodology as proposed for legislative priorities at REC level